

## Neighbourhood Disputes

For people living in densely populated areas such as the city and inner suburbs, neighbourhood disputes are common. Issues that may give rise to neighbourhood disputes include noise, harassment and threats, fences, trees, pets, rubbish, access to properties, renovation and building work, and strata living. This factsheet gives some general information on how best to deal with these kinds of disputes and the legal options available to assist in resolving the problem.

### COMMUNITY JUSTICE CENTRES

Often the best way of resolving neighbourhood disputes is to approach your neighbour directly and to discuss the problem politely.

However, if discussing the matter does not work, or if you don't feel confident enough to face your neighbour on your own, it may be appropriate to approach your local Community Justice Centre (CJC).

CJCs provide free mediation and conflict management services to help people resolve disputes. With over 80% of mediations resulting in an agreement being reached, mediation at your local CJC can frequently lead to a successful outcome. The mediation session is conducted by two impartial, trained mediators, who help people understand each other's position and to reach a suitable agreement.

There are many benefits in attempting to resolve your neighbourhood dispute at a CJC rather than taking the matter to Court, such as:

- no waiting lists for mediation at a CJC;
- the process is informal and does not require legal representation;
- the people involved in the dispute decide what is discussed and what is agreed upon;
- you and your neighbour can find a solution that suits you; and
- mediation at a CJC is free, whereas Court proceedings attract court fees and often the cost of legal representation.

Mediation can only be organised if both parties are willing to discuss the problem, as attendance at a CJC mediation is completely voluntary.

**For further information about Community Justice Centres see: [www.cjc.nsw.gov.au/](http://www.cjc.nsw.gov.au/) or ring them on 1800 990 777.**

### PROBLEMS WITH NOISE

Neighbourhood disputes are often caused by intrusive noise. Frequently people are not aware of the impact of their actions on their neighbours. Often the best way of resolving disputes about noise is to approach your neighbour directly and to discuss the problem politely.

However, if the possibility of resolving the dispute between yourselves is no longer an option, it may be appropriate to take any of the following steps:

- **Community Justice Centre (CJC)** – Neighbourhood disputes concerning noise are often successfully resolved through mediation at a CJC.  
For more information about CJCs please refer to the discussion above under 'Community Justice Centres'.
- **Local Council** – Local councils can serve various notices - including noise abatement directions - on people occupying homes and businesses, requiring them to control noise and advising them of acceptable noise levels. The notice can require the noise-making activities to be restricted to certain times of the day or certain days. If the notice is not complied with, the council can prosecute.  
**For further information please contact your local council see: [www.olg.nsw.gov.au/](http://www.olg.nsw.gov.au/)**
- **Police** – Like local councils, the police have powers to issue noise abatement directions. Noise abatement directions can be issued at any time of the day or night. The direction can remain in force for up to 28 days from the time it was made.  
**For further information please contact your local police station see: [www.police.nsw.gov.au/](http://www.police.nsw.gov.au/)**
- **Local Court** – You may apply directly to your Local Court for a noise abatement order. If the Court is satisfied that there is enough evidence that your neighbour is causing an offensive noise or that the noise is likely to happen again, it may order your neighbour to stop the noise or to prevent it from happening again. If your neighbour fails to comply with the Court order, they may receive a fine.

Please note that applying to the Local Court for a noise abatement order involves the cost of court fees, and you may be ordered to pay the other party's legal costs if you are unsuccessful. It is recommended that you obtain legal advice before pursuing this option. **Please contact your local Community Legal Centre: see [www.nswclc.org.au](http://www.nswclc.org.au)**

**For further information on applying for a noise abatement order please contact the Chamber Registrar at your Local Court, see: [http://www.localcourt.justice.nsw.gov.au/Pages/about\\_us/registries.aspx](http://www.localcourt.justice.nsw.gov.au/Pages/about_us/registries.aspx)**

**Other Useful Contacts:**

- Environmental Protection Agency – [www.epa.nsw.gov.au/](http://www.epa.nsw.gov.au/)
- LawAccess – [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)

## VIOLENCE, HARASSMENT OR INTIMIDATION

Sometimes neighbourhood disputes can escalate to a point where your neighbour is causing you to fear for your personal safety. In these situations you may be able to take out an Apprehended Personal Violence Order (APVO) against your neighbour. APVOs are made by the Local Court where the people involved are *not* in a domestic relationship, such as neighbours, colleagues or strangers.

If you are applying for an APVO against someone like a neighbour, you may wish to go to mediation to discuss the problem and resolve the dispute. The court must refer all APVO applications to mediation unless there is a good reason not to. Such reasons could include: a history of physical violence, or that the defendant has stalked or intimidated the protected person or mediation has failed in the past.

- **The purpose of an APVO** – An APVO is made to protect people against acts of violence such as physical assault, non-physical abuse such as harassment or intimidation, or damage or threatened damage to your property.
- **Applying for an APVO** - You can either contact your local police and report the violent or threatening incident and discuss the possibility of the police applying for an APVO on your behalf, or you can make a private complaint to your Local Court. The Chamber Registrar at your Local Court can help you make the application for an APVO.  
**Please note:** if you are considering applying for an APVO the Court may order you to pay your neighbour's court costs if your application is unsuccessful and is found to be frivolous or vexatious.
- **Breaching an APVO** – The making of an APVO against your neighbour will not give them a criminal record. However, if your neighbour disobeys any of the orders of the APVO, they may then be arrested and charged with a criminal offence.

**For further information about APVOs see:**

- Community Legal Centres – [www.nswclc.org.au](http://www.nswclc.org.au)
- Local Courts – <http://www.localcourt.justice.nsw.gov.au/>
- Legal Aid Commission – [www.legalaid.nsw.gov.au](http://www.legalaid.nsw.gov.au)
- LawAccess – [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)

## PROBLEMS WITH DIVIDING FENCES

In New South Wales the *Dividing Fences Act* 1991 sets out the mutual obligations between neighbours with respect to the building of a common fence. The basic principle of the *Act* is that the cost of building a common fence should be shared equally between neighbours. The *Dividing Fences Act* also sets out the procedure for resolving disputes about the cost, type and position of a fence.

Adjoining land owners are liable to share equally the cost of paying for all work that results in a 'sufficient dividing fence'. A land owner wanting an adjoining land owner to share in the cost of a dividing fence must first serve a Fencing Notice on that adjoining owner before commencing any fencing work.

Once you have served a Fencing Notice on your neighbour, you should then try to negotiate an agreement as to the scope and cost of the work required. Assistance in reaching an agreement is available at your local Community Justice Centre (CJC). For more information about CJs please refer to the discussion above under 'Community Justice Centres'.

If you are unable to reach an agreement within 1 month of serving the Fencing Notice, either you or your neighbour may apply to your Local Court (or Local Land Board) to have the matter decided.

**For further information about dividing fences see:**

- Local Courts – <http://www.localcourt.justice.nsw.gov.au/>
- Local Land Boards – <https://www.lls.nsw.gov.au/>
- LawAccess – [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au)



## PROBLEMS WITH TREES

If your neighbour's tree has branches overhanging onto your property, you may legally trim them back to the boundary of their land. However, as you could be held liable for any property damage caused while trimming or cutting the tree, it is a good idea to have any extensive work carried out by a professional. Please note that the owner of the tree is not legally obliged to contribute to the cost of pruning. Before cutting any branches, it is important that you check with your local council to see if the tree is protected by a tree preservation order, as there are heavy fines for breaching such orders.

Before taking any action on an overhanging tree, it is sensible to notify your neighbour of your intentions. If a dispute arises, it may be possible to resolve the issue at your local Community Justice Centre (CJC). For more information about CJsCs please refer to the discussion above under 'Community Justice Centres'.

In certain circumstances it may be possible to sue your neighbour for problems caused by their trees. If you believe that your neighbour's trees have damaged your property, please contact your local Community Legal Centre – see <http://www.nswclc.org.au>

For more information - [http://www.leg.justice.nsw.gov.au/Pages/types\\_of\\_disputes/class\\_2/Trees-hedge-disputes-process/Treedisputes-helpfulmaterials/treedisputes\\_helpfulmaterial.aspx](http://www.leg.justice.nsw.gov.au/Pages/types_of_disputes/class_2/Trees-hedge-disputes-process/Treedisputes-helpfulmaterials/treedisputes_helpfulmaterial.aspx)

## PROBLEMS WITH STRATA LIVING

Disputes that arise in strata schemes frequently involve by-laws, common property and meeting procedures. The first step in attempting to resolve any dispute is to speak to the other party about the problem. Owners in the strata scheme can request that a meeting be called with the owners corporation in order to discuss the issue. If you are unable to resolve the matter within the scheme, the *Strata Schemes Management Act 1996* (NSW) establishes a dispute resolution process.

The dispute resolution process set down by the *Act* consists of 3 steps: mediation, adjudication and a tribunal hearing. Disputes may be mediated at your local Community Justice Centre (for more information about CJsCs please refer to the discussion above under 'Community Justice Centres') or at the Strata Schemes and Mediation Services Branch of the Office of Fair Trading.

If mediation is unsuccessful, the next step is to apply for adjudication of the matter to a Strata Schemes Adjudicator. For information on how to apply contact the Strata Schemes and Mediation Services Branch of the Office of Fair Trading.

Orders made by Adjudicators may be appealed to the NSW Civil and Administrative Tribunal.

For further information see <https://www.fairtrading.nsw.gov.au/housing-and-property/strata-and-community-living/strata-schemes>

**Acknowledgements:** *The Law Handbook*, 9th edition (Redfern Legal Centre Publishing); *Hot Topics – Neighbours and the Law* (2004), Legal Information Access Centre; Local Courts website; NSW Office of Fair Trading website.

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*This information is current to 16 October 2018 and reflects the law in New South Wales. It is general information and is no substitute for legal advice tailored to your particular circumstances. For assistance, contact the ICLC on 9332 1966.*